

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**Helena Headquarters**  
**1420 East 6<sup>th</sup> Avenue**  
**Helena, MT 59620**

**NOVEMBER 4, 2004**

**Commission Members Present:** Dan Walker, Chairman; Tim Mulligan, Vice-Chairman; John Lane; Mike Murphy; John Brenden.

**Fish, Wildlife & Parks Staff:** Director Jeff Hagener; FWP personnel.

**Guests:** Jim Abrahamson; Robin Cunningham, FOAM; Russ Copeland, MOGA; Larry Copenhaver, MWF; Wayne Hirst; Mary Ellen Schnur, MOGA; John Jay Willoughby, RMEF; Al Christopherson, RMEF; Lochiel Edwards, MGGA; Will Roehm, MGGA; J. R. Vandersande, BRW; Randy Gray, Mayor of Great Falls; John Kramer, Great Falls Development Authority; Sue Dalbey, Dalbey Resources; Nelson Wert, MT Farm Bureau; Dave Galt, Director, Department of Transportation; John Wilson, Montana Trout Unlimited.

**Topics of Discussion:**

1. **Opening - Pledge of Allegiance**
  2. **Approval of October 7, 2004 Commission Minutes**
  3. **Approval of Commission Expenses through October 31, 2004**
  4. **December Meeting Schedule Discussion**
  5. **Approval of 2005 Commission Meeting Schedule**
  6. **Beaverhead River and Bighole River Rulemaking Overview**
  7. **2005 Non-Resident Combination License Annual Rule – Final**
  8. **Big Game Season Extension Criteria ARM – Final**
  9. **Select Organization to Conduct Moose & Sheep Auction and Deer & Elk Auction / Lottery – Final**
  10. **Elk Plan Update - Informational**
  11. **Proposal to Amend the Lewis & Clark Heritage Greenway Conservation Easement – Final**
  12. **Clark Canyon Reservoir Emergency Fishing Regulations – Final**
  13. **2005 Bull Trout Fishing Regulations – Final**
  14. **Ft. Peck Reservoir Sauger / Walleye Fillet Regulation - Final**
  15. **Lake Koocanusa Two Line Fishing Regulation – Final**
  16. **Little Blackfoot River FAS - Informational**
  17. **Petition to Restrict Outboard Motors on the Bull River - Tentative**
  18. **Petition for No-Wake Zone on Stuart Mill Bay of Georgetown Lake – Tentative**
  19. **Public Opportunity to Address Issues Not Discussed at this Meeting**
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1. **Opening - Pledge of Allegiance.** Chairman Dan Walker called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

**2. Approval of October 7, 2004 Commission Minutes.** Brenden requested that the minutes reflect his statement that “he did not care how people from New York City feel about hunting in Montana” rather than “...whether or not out-of-state hunters like the hunting in Montana” on page 11 during the bison discussion.

*Action: Murphy moved and Lane seconded the motion to approve the minutes of the October 7, 2004 meeting with the noted correction. Motion carried.*

**3. Approval of Commission Expenses through October 31, 2004.**

*Action: Murphy moved and Brenden seconded the motion to approve the Commission expenses through October 31, 2004 as presented. Motion carried.*

**4. December Meeting Schedule – Informational.** Jeff Hagener, FWP Director, pointed out that the December 16 Commission agenda is extensive and suggested that it may be advantageous to hold a two-day meeting. It was decided to begin the meeting Wednesday, December 15 at 3:00 p.m., and work through Thursday until business is completed. Walker will be attending the Private Lands / Public Wildlife meeting on December 15; Mulligan will chair the Commission meeting in Walker’s absence.

**5. Approval of 2005 Commission Meeting Schedule.** Jeff Hagener, FWP Director, explained that the proposed schedule was based on prior years’ meeting days and dates, however regional meetings are not designated as of yet. Typically, three meetings are held each year in the regions on a rotational basis. Region 6 (Headquarters in Glasgow), Region 4 (Headquarters in Great Falls), and Region 5 (Headquarters in Billings) were selected as the sites for 2005. The regions will be contacted to determine suitable meeting dates. The final 2005 schedule will be approved at the December meeting.

**6. Beaverhead River and Bighole River Rulemaking Overview.** Charlie Sperry, FWP River Recreation Management Specialist, explained that in April 2003, the Commission adopted administrative rules governing recreational use on these two rivers. The Commission must decide whether or not to repeal or amend those rules by May 1, 2005. To initiate the process for final rule making, the Commission needs to take action on the tentative rules at the December 16 meeting. The Commission approved the statewide river management rules at the October 2004 meeting, subsequent to recommendations made by the River Recreation Advisory Council.

Sperry said the decision made in December might be made without the benefit of recommendations of the recently appointed citizen advisory council. He suggested striking the language in the existing rules that states that the Commission shall repeal or amend this rule on or before May 1, 2005, since that becomes irrelevant. He asked the Commission to consider whether or not they wish to repeal or make additional changes to the existing rules prior to the citizen advisory council’s input. Or, an alternative to proposing any significant changes to the existing rules, other than striking the sunset language, could be to add a new tentative rule to the exiting rule that would read: *The statewide administrative rules governing river recreation management shall apply to future recreation management actions on the Beaverhead River and Big Hole River.*

The new rule would make it clear that future management rulemaking actions would take into consideration the statewide river recreation rules, and confirm the intention to adhere to those rules with future management actions. Sperry said a resolution has also been written to reemphasize the Commission's intent to adhere to statewide river recreation rules.

**Bob Lane, FWP Legal Counsel**, cautioned that if the Commission initiates rulemaking prior to advisory committee recommendation, then the advisory committee comes to a consensus on recommendations for changes to the existing rules, the Commission would then need to initiate a second round of rulemaking to incorporate those recommendations. Rather than incorporate them as a part of the first round of rulemaking, he recommended adding language that assures the public and the advisory committee that even though the Commission initiates rulemaking in December, they are committed to considering the committee's recommendations and would also consider initiating a second round of rulemaking to incorporate those recommendations.

Mulligan said the current rule mandates that action must be taken prior to May 1, 2005, therefore the Commission needs to begin the rulemaking process in December. The logistics of the rulemaking timeframes do not correlate with the appointment of the current citizens group. He said it is not possible to meet the full intent and spirit of the rule between December 16 and May 1 given the prescribed process. The intent of the language is to recognize that future changes to the rule would follow the appropriate process, and the resolution assures that even though the rulemaking process begins in December to meet timeframe requirements, the work that the citizens group does and the comments from the public are taken into consideration.

Walker asked if would there be any value in changing the date from May 1, 2005 to May 1, 2007. Mulligan replied that that would extend the rule as it currently is for another two years, and since this situation has already been encountered 4 or 5 times, he stated his preference would be not to extend the date again.

Walker asked what happens in May if the newly appointed advisory committee has not reached consensus. Sperry said if they come to a consensus and recommend rule changes, it will be necessary to initiate a second round of rulemaking. If they do not come to a consensus on changing the rules, but they do come to consensus on recommending a management planning process, or more data collection, then the Department would need to find the resources (funds and staff) to accomplish that task. Mulligan added that the current rules would stay in effect until the process was completed.

Bob Lane said as well intended as sunset provisions are, they tend to be something to trip over. If the committee runs out of time, a glitch is created that stalls the whole process.

**7. 2005 Non-Resident Combination License Annual Rule – Final.** **Dan Ellison, FWP Administration & Finance Division Administrator**, said the tentative recommendations proposed by the Variable Priced Licensing Advisory Council were approved at the September meeting. Those recommendations were to sell 5,750 B10 licenses at \$975 each, and to sell 2,400 B11 licenses at \$775 each. Refunded licenses would be reissued on an alternates list prior to September 1. Montana Outfitters and Guides Association submitted the sole comment received, and that comment was in support of the proposal.

*Action: Brenden moved and Murphy seconded the motion to adopt the 2005 annual rule for the sale of non-resident combination licenses with a quota of 5,750 B10 licenses at a cost of \$975 each, and a quota of 2,400 B11 licenses at a cost of \$775 each, and refunded licenses would be reissued based on an alternates list prior to September 1.*

*Discussion on motion:* Jim Abrahamson was interested to know if the non-resident fee increases were proportionate to the proposed resident fee increases. Walker stated the non-resident fee has been raised significantly over the last few years while the resident fee has not.

*Action on motion: Motion carried.*

**8. Big Game Season Extension Criteria ARM – Final.** Gary Hammond, FWP Wildlife Management Bureau Chief, said two public hearings were held in Helena with no attendance, nor have any comments been received, however the comment period ends tomorrow. If any comments are received following today's meeting, the final decision will need to be revisited.

Hammond said the Department recommends one change to New Rule I, article D, which reads "mild weather conditions during the fall hunting season result in a harvest that is at least 50% below the five-year average for that check station". He said that since 1986, there have been only three years where it was mild enough in the fall that that this number would have been appropriate, but after evaluation, it was decided that 75% of average would be a more realistic figure.

Walker asked why article D was included at all. Hammond replied that a numeric figure was designated to help define what constituted mild weather conditions, and how that related to harvest. Walker said 75% is more restrictive than 50%. Hammond said 25% below average would be the better way to phrase the wording in the rule.

*Action: Walker moved and Brenden seconded the motion to approve the modification of ARM 12.9.808 (Management Seasons) as final season extension criteria including the change to read 25% below the five-year average for that check station. Motion carried.*

**9. Select Organization to Conduct Moose & Sheep Auction and Deer & Elk Auction / Lottery – Final.** Jeff Herbert, FWP Wildlife Division Assistant Administrator, said the Department received four proposals for the auction / lottery licenses of 2005. The Foundation for North American Wild Sheep (FNAWS) addressed all four licenses, the Rocky Mountain Elk Foundation (RMEF) addressed the elk license, the Mule Deer Foundation addressed the mule deer license, and the Boone and Crockett Club addressed the moose license. The Skyline Sportsmen's Club indicated interest in pursuing a license next year, but not this year.

Walker was disappointed that no interest was expressed in a lottery. It would offer many people a chance to win a license, and it has the potential for an organization to net a large amount of money. Herbert said the RMEF expressed some interest but he had heard no specific reasons why it was not pursued. Brenden said he is not opposed to either the lottery or the auction, however, he feels auctions are a rich man's game. Brenden said the Department needs to promote the lottery option, to which Herbert replied that this request could indeed be accommodated. Hagener said that legislation is being drafted on behalf of PLPW to allow licenses to be sold by means of a lottery to enhance Block Management revenues.

*Action: Brenden moved and Mulligan seconded the motion to award the sheep license to the Foundation for North American Wild Sheep (FNAWS), the elk license to the Rocky Mountain Elk Foundation (RMEF), the mule deer license to the Mule Deer Foundation (MDF), and the moose license to Boone and Crockett Club. Motion carried.*

Herbert said the Bison comments will soon be provided to the Commission in a verbatim summary. Walker and Brenden said they will not consider written comments if the authors do not identify themselves. Herbert said the FWP website asks for the name and address of the writer along with his/her comments. Mulligan said the name and address should be mandatory before they can proceed onto the next screen, **or** a notice should be written in large, bold print that says comments will not be considered if there is no name affixed to the comment.

**10. Elk Plan Update – Informational. Gary Hammond, FWP Wildlife Management Bureau Chief,** said the comment period on the proposed elk plan ends November 8<sup>th</sup>. The Department has received approximately 40 comments up to this point. There have also been requests to extend the comment period. Hagener noted that 22 statewide hearings had already been held to provide opportunity for public comment. Walker said the request is based on the thought that many sportsmen would not have had the opportunity to comment on the elk plan due to their hunting excursions, but he felt it necessary to proceed and not delay any longer. Mulligan said a description should be included in the rules to address the process for revisions and how objectives will be revisited. Mulligan said it is a good plan that focuses on the concept of adaptive harvest, however it only talks about it within the frame of 15% to 20% of the objective. Walker said elk viewing is a large issue in the Red Lodge area, and that component needs to be considered as an element of wildlife management as well. Hammond said comments from the Bitterroot area indicated that the sportsmen's club would like the objective set at 10,000 rather than the recommended 6,500. Mulligan said the Elkhorn Working Group is presently conducting studies and will want to know how the objectives can be adjusted.

Walker said it is a bit of a daunting document, and he does not feel sportsmen understood the document the Department was working from prior to this. Given the comparison and what has been learned over the last 10 years, appreciation has been gained for FWP's efforts and what has been learned about adaptive harvest management. Herbert said he thinks people appreciate the amount of information that is included in the summary section.

**11. Proposal to Amend the Lewis & Clark Heritage Greenway Conservation Easement – Final. Doug Monger, FWP Parks Division Administrator,** explained The Montana Power Company (now PPL Montana), donated a 2400-acre conservation easement in 1999, as well as 600 acres of fee title land on the north side of the Missouri River across from Giant Springs. The Great Falls Development Authority (GFDA) has been granted approval to develop an industrial park, inclusive of Froedert Malting Plant, and now find that they need a three-acre easement through the Lewis & Clark Heritage Greenway conservation easement, held by FWP, to allow for a railroad right-of-way to provide the delivery of grain and commodities in exchange for a 20-acre parcel of similar land adjacent to the conservation easement. The Environmental Assessment released in October generated only two comments.

An alternative suggestion was to reroute the railroad via an 11-mile extension to the existing railroad line. FWP, through a private contractor and GFDA, conducted an environmental assessment for this proposed action. Two public comments and one internal comment were received. The Decision Notice

prepared by Mike Adherhold addresses the concerns raised by those comments. The Department recommends granting the easement in exchange for the 20 acres adjacent to the easement.

*Action: Lane moved and Brenden seconded the motion to amend the conservation easement to allow PPL Montana to grant an easement to the Great Falls Development Authority for a railroad right-of-way through the Lewis & Clark Heritage Greenway Conservation Easement and to accept an additional 20 acres of conservation easement from PPL Montana.*

Walker invited the audience to comment.

John Kramer, President, Great Falls Development Association, spoke in support of this proposal. He said the first phase of this project will cost approximately \$8 million. Financial investments have been made by several sources to assist in development of this industrial center. The City of Great Falls is installing \$4 million dollars in water lines and sewer lines, and Senator Burns earmarked \$150,000 toward planning future developments and a market strategy not solely based on the commodities grown in Montana, and the Montana Department of Agriculture has spent \$100,000 on the engineering analysis of the railroad spur. The USDA Rural Development and EDA have been asked for \$4 million to help pay for the railroad spur. This entire development process remains sensitive to environmental concerns.

Randy Gray, Mayor, City of Great Falls, said the railroad already runs through this land, that this easement is to add a spur to the existing line. He said the acquisition of the 20 acres adjacent to this land is a good trade for the people of Montana, and the City of Great Falls encourages this proposal.

Lochiel Edwards, President, Montana Grain Growers Association, said the farmers of Montana are interested in developing partnerships with the businesses that enter into this project, and they appreciate the efforts of GFDA. They encourage this proposal.

Walker asked Randy Gray if condemnation of the property had ever been contemplated. Gray replied that condemnation is not a pleasant route to take, that there are other alternatives, including this collaborative effort with FWP. State statute prohibits condemning the land. Kramer stated that Burlington Northern did not want to build the spur themselves. The federal money involved requires that the spur remain in ownership, therefore GFDA is the owner. The spur must be built to BN's specs, and GFDA will maintain it.

Representative Jim Keane said this is not the right thing to do, there are other ways to do this. He said extending the railroad the additional 11 miles would be the better option as it would put more people to work, and would keep the easement in place. He said this could have been a win-win situation to hold the easement and go the 11 miles.

Monger said the 20-acre parcel is immediately adjoining the conservation easement on the eastern portion of the 60-acres that were originally contemplated in the EA. Monger said we need to amend the Conservation easement for change of use for the 3-acre parcel. This does not have to go to the land board, however, as the acreage and values are below 100 acres or \$100,000.

*Action on motion: Motion carried.*

**12. Clark Canyon Reservoir Emergency Fishing Regulations – Final.** Chris Hunter, FWP Fisheries Division Administrator, said public comments on all four Fisheries agenda items were accepted until last Friday. No comments were received on this proposal.

The Clark Canyon emergency regulations have been discussed annually for the last 4-5 years resulting in the Department ordering emergency reductions to trout and burbot limits through the winter and then reverting back in the spring. Inflows to Clark Canyon this year are the lowest on record, and it is expected that it will be at least a third below pool level by next spring. Historically, the reservoir has been stocked with trout, but this has proved to be an almost total failure over the last two years due to low water levels. Fish populations have suffered severely over the last 2 years. The Department is requesting that the emergency regulation of 2 burbot and 2 trout harvested daily remain in place until criteria are met, which will take a couple of years to accomplish. The limit reduction will be rescinded when rainbow trout samples reach 8-10 total fish per net with a recruitment survival rate of 4-5 Age I fish per net under increasing trends, or when minimum May pools of 140,000 – 145,000 acre feet are maintained along with fall minimum pools of 55,000-60,000 acre feet for two years.

Walker asked if it would suffice to go with pool levels rather than the number of fish netted. Hunter said once it is below 60,000 acre feet, the populations decline, and it would take a couple of years from the first time it reaches 60,000 feet again before the fish populations recover. Hunter added that there is a history of netting on the reservoir and there is a good baseline to compare to. Walker said there is a lot of vegetative growth so it will be like a reflooding when it refills.

Walker asked if it is necessary to include information on gill nets, to which Hunter replied that it could be removed. Mulligan said it adds specificity and is consistent with the approach of the Canyon Ferry Management Plan as well as others.

*Action: Mulligan moved that the daily limit in Clark Canyon Reservoir be reduced to 2 trout and 2 burbot, effective immediately, and this daily limit regulation shall remain in place until further notice.*

*Discussion on Motion:* It was decided to replace “until further notice” with “for two years until identified criteria are met” to the criteria specifications relative to the minimum pool acre-feet.

*Action on Motion:* Walker amended Mulligan’s motion to replace “until further notice” with “until identified criteria are met” to the motion. Mulligan concurred with the amendment and Brenden seconded the amended motion. Motion carried. The motion now reads “that the daily limit in Clark Canyon Reservoir be reduced to 2 trout and 2 burbot, effective immediately, and this daily limit regulation shall remain in place until identified criteria are met”.

**13. 2005 Bull Trout Fishing Regulations – Final.** Bull trout are regulated under the federal Threatened and Endangered Species Act, and any changes to FWP’s fishing regulations require authorization from the US Fish and Wildlife Service (USFWS). Chris Hunter, FWP Fisheries Division Administrator, said the Department has negotiated with the USFWS for 4-5 years to allow the harvest of bull trout at Lake Koocanusa, Hungry Horse Reservoir, and a portion of the South Fork of the Flathead River. In 2004, a research agreement was reached with them allowing a limited harvest of bull trout on those three bodies of water for a two-year period. An experimental design was developed so that at the end of the two years, FWP could provide results to the USFWS of what a limited harvest would have on the bull trout population.

The first year of the experiment has just been completed. Over 2,700 permits were issued. The Department is now in the process of surveying those permittees to acquire information for comparison to historical data. This information will be provided to the USFWS after 2005.

Hunter said the Department recommends continuing the trout regulations for another year into 2005.

*Action: Murphy moved and Brenden seconded the motion to retain the 2004 special bull trout fishing regulations for the 2005 fishing season on Lake Koocanusa, Hungry Horse Reservoir, and a portion of the South Fork of the Flathead River. Motion carried.*

**14. Ft. Peck Reservoir Sauger / Walleye Fillet Regulation – Final. Chris Hunter, FWP Fisheries Division Administrator,** explained that under existing regulations, sauger and walleye cannot be filleted until anglers are off the water and done fishing for the day. The concern has been expressed that an angler may fish, leave the water, fillet the fish, put the fish in the cooler, then go back on the water the next day with these same fish still in the cooler, then get cited for filleting the fish under the misunderstanding that it is the current day's catch. Hunter stated that in checking with the Enforcement Division, there have not been any citations issued since this regulation went into effect two years ago. Walker said in visiting with local sportsmen, it hasn't been an issue with them – its been a "what if" which has not happened. No public comment was received. Hunter said the Department recommends leaving the regulation in place as it is.

Walker said the real concern tends to be the regulation regarding retaining the inch of skin on warm water fish. Hunter assured the Commission that this one-inch of skin requirement will be delved into in the future.

*Action: Walker moved and Lane seconded the motion to retain the current regulations relative to filleting sauger and walleye on Fort Peck Reservoir. Motion carried.*

**15. Lake Koocanusa Two Line Fishing Regulation – Final. Chris Hunter, FWP Fisheries Division Administrator,** said FWP received 7 comments supporting the use of two fishing lines on Lake Koocanusa. As the Department is involved in an experimental research effort on Lake Koocanusa, Hungry Horse Reservoir, and a portion of the South Fork of the Flathead River regarding bull trout regulations, his concern was that the U.S. Fish and Wildlife Service might look unfavorably on this proposal. FWP contacted the USFWS and they felt that the use of two poles would not violate the research agreement, however if it increases the take on bull trout, the USFWS could choose not to renew the agreement with the Department at the end of 2005.

Hunter expressed concern that since FWP is one year into this experiment, if a variable is altered (i.e. the number of fishing lines) it may call into question the results of the experiment, which could result in denial of project renewal for 2006-2007. Based on that, he recommends that the Commission leave the one-line regulation in place for one more year, and next year it could be modified to two lines if so desired and be included as part of the experimental design. Hunter fears the USFWS may frown if FWP changes the experiment "in the middle of the stream".

Murphy suggested it might be beneficial to learn if two rods would cause problems. Hunter said his concern is if the experiment is changed halfway through, it will confound the results and the USFWS may declare the experiment invalid. He stated that the only way FWP will continue that fishery is



through another 2-year experimental design. Mulligan suggested two years with 1 rod and two years with 2 rods. Murphy asked Hunter if FWP went to two rods now, would another study need to be conducted to determine if two rods caused an impact. Hunter said the permit for this experiment ends next year - unless another permit is obtained from the USFWS to conduct another 2-year experiment, the fishery will be over. The only way we can have a fishery is if we have an experimental study going on due to the status of the fish.

*Action: Mulligan moved and Walker seconded the motion that the fishing regulations for Lake Koocanusa remain at one line for 2005 and increase to 2 lines in 2006. Motion carried.*

Mulligan asked that an explanation be provided in some manner to inform anglers and call attention to the situation. Karen Zackheim said the change will be included in the 2006 tentatives for public comment, and she will also contact those who provided comments. Hunter added that it can also be put out as a press release, and it will be on the FWP website.

**16. Little Blackfoot River FAS – Informational. Dave Galt, Director, Department of Transportation (DOT),** told the Commission about a 2-acre parcel of property along the Little Blackfoot River near Garrison that was once used as a rest stop but has been closed for some time due to water and sewer problems. The buildings have been removed, as have the road and access. He said it is not an extremely valuable piece of land because of its size and the septic tank issues, but he suggested it might make an ideal Fishing Access Site. DOT would transfer or lease this land to FWP and reinstall the culvert, approach, and parking lot in exchange for future land trade considerations. Galt said DOT's Legal and Right-of-Way Divisions are looking into appropriate transfer mechanisms so that this could happen in the near future.

Walker said this parcel would be a welcome addition as a FAS. Hagener stated that it is a good site that would fit well. He said it would be a land transfer between state agencies and would not require a full MEPA document until improvements are made. This proposal can be brought back in December, after the transfer details are completed, for final approval. Hunter added this would be a good acquisition as there currently is no public access to the Little Black Foot along the length of the river.

Galt said that additional land acquisition opportunities may be provided to FWP as DOT identifies parcels of land no longer vital for highway use. Several sites that used to be rest areas have already been developed into parking areas.

The Commissioners unanimously agreed that DOT and FWP should proceed with this proposal and bring it back in December for action.

**17. Petition to Restrict Outboard Motors on the Bull River – Tentative. Ron Jendro, FWP Enforcement Division Recreation Program Manager,** explained that Administrative Rule 12.11.117(b) requires petitions requesting boating regulation changes be submitted to FWP by September 30. This petition and the Stuart Mill Bay petition are in response to that Rule.

The Bull River is a 25-mile stretch of river between Troy and Noxon in Region 1. As it is a relatively small river, only a 5-mile section is actually boated on. There are no boat ramps on this section but there are people who boat up from the Noxon Reservoir.

The petition from the Bull River Watershed Council requests restriction of combustion outboard motors on the Bull River and its tributaries. This would eliminate jet skis and restrict lower horsepower motors.

Jendro said this proposal is for a tentative rule that would go to the public for comment, subject to Commission approval. Mulligan asked Jendro to clarify if this is indeed for a tentative rule, or is it to direct the Department to go out for public meetings. Jendro said it is for the Commission to direct FWP to propose a tentative rule and then provide the public comment period. Jendro said it would be practical to receive public comments prior to preparation of a tentative rule should the public not be in support of the issues. Walker asked if there aren't already restrictions in some areas that limit motorized watercraft to 9.9 horsepower. Mulligan replied that most of the rivers in southwestern Montana have those restrictions.

Brenden said he does not like this type of restriction. He said he resents it when certain aspects of the recreational industry are pitted against others. He has "no problem with people moving to Montana and living here, however he resents people coming here and telling us how to do things." He fears we will continue down the path of setting more and more precedents on Montana's lakes and rivers, negatively impacting the people of Montana. He is adamant that recreationists should not "play god" by proclaiming that "this sport is ok, but this sport is not ok".

*Action: Brenden moved and Lane seconded the motion to not regulate this water through the restriction of outboard motors on the Bull River.*

*Discussion on Motion:* Mulligan said hearing what the public has to say would provide insight as to how they feel about this proposal. He said there may be 100% support for going to Horsepower or no-wake restrictions, but he does not think non-motorized restrictions will be supported. Mulligan, himself, would not support non-motorized, and he does not think the Commissioners should pronounce their personal philosophies without hearing from the public. Brenden disagreed, saying a decision needs to be made one way or the other.

Walker said this could be proposed as a tentative with a public meeting, or simply close the matter. Brenden said his motion is to leave it unregulated. Walker asked Brenden if he wanted to put it out as a tentative and hold a meeting with those residents. Brenden replied that was not part of his motion. **Becky Dockter, FWP Legal Counsel**, said to put a proposal out as a tentative means accepting public comment, and there actually has to be a rule to propose for that course of action. She said a decision can be made to deny the petition and that will not go out for public comment. Walker asked for modification to the motion.

*Action on Motion: Brenden amended his motion and Lane seconded the amendment to deny the petition that would restrict motorized use on the Bull River. Motion carried. Four in favor – one opposed (Mulligan).*

**18. Petition for No-Wake Zone on Stuart Mill Bay of Georgetown Lake – Tentative. Ron Jendro, FWP Enforcement Division Recreation Program Manager**, said this petition is a request to establish a no-wake zone on Stuart Mill Bay. The petition is endorsed by four interest groups, which include the Anaconda Sportsmen's Club, the George Grant Chapter of Trout Unlimited, the Georgetown Lake Homeowner's Association, and the Skyline Sportsmen's Club.

The concern is that there will be two new boat ramps installed, increasing traffic and causing safety issues for the fishermen in canoes and floating devices. One ramp is within the bay, and the other is outside the bay designed for small vessels. Jendro said the area in question covers 78 surface acres or 2.7% of the lake. Mulligan said this petition came forward from a wide cross-section of the *users*, and feels a public process is necessary to hear what the rest of the people think.

*Action: Mulligan moved and Murphy seconded the motion to direct Region 2 to conduct public meetings in the Georgetown Lake area to gather public input on this petition.*

*Discussion on Motion:* Mulligan said the hearings must be conducted when the majority of the cabin owners are available to address the concerns of the petitioners.

*Amendment to Motion: Mulligan amended his motion to hold the public meetings when the majority of the cabin owners are available to attend the meetings.*

*Discussion on Motion:* **Chris Smith, FWP Chief of Staff**, suggested the Department conduct a survey of property owners surrounding the lake, in addition to the hearings, to determine their availability with respect to public hearings. A survey would provide direct contact with them, while at the same time providing them the opportunity to participate. This combination of strategies may reduce the time constraint concerns. Mulligan said he would like to do both given what has been encountered in the past. He said a survey is a good idea, however a reasonable number of folks will still not be located. Walker said some folks will complain when they are not contacted.

Brenden said it's the older age bracket of people who own these lake lots, and they tend to be more conservative and like less intrusion on their lifestyles. He said personal responsibility is the key. Murphy agreed with Brenden, and agreed it is important to hear public comment and base the final decision on their input.

*Action on motion: Motion carried. Four in favor – one opposed (Brenden)*

**19. Public Opportunity to Address Issues Not Discussed at this Meeting.** No comments.

Meeting adjourned at 11:26 a.m.

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**Dan Walker, Chairman**

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**M. Jeff Hagener, Director**